

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

DAVIAN GUY,

Plaintiff,

v.

SOUTHEAST CORRECTIONAL CENTER,

Defendant.

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No. 1:22 CV 44 MTS

**MEMORANDUM AND ORDER**

This matter comes before the Court on its own motion. On May 31, 2022, the Court directed plaintiff to either file a motion for leave to proceed in forma pauperis or pay the full filing fee. Doc. [4]. He was sent a copy of the Court's motion for leave to proceed in forma pauperis form, and given thirty days in which to comply. The Court advised plaintiff that the failure to either move for leave to proceed in forma pauperis or pay the filing fee would result in the dismissal of this action without prejudice and without further notice. Plaintiff's response was due on or before June 30, 2022.

The deadline for plaintiff to comply with the Court's order has expired. Indeed, the Court has given him longer than thirty days, but has not received a motion for leave to proceed in forma pauperis, the filing fee, or a motion requesting an extension of time in which to comply.

"In general, pro se representation does not excuse a party from complying with a court's orders and with the Federal Rules of Civil Procedure." *Ackra Direct Marketing Corp. v. Fingerhut Corp.*, 86 F.3d 852, 856 (8<sup>th</sup> Cir. 1996). To that end, Rule 41(b) of the Federal Rules of Civil Procedure "provides that a court may dismiss a case for failure to comply with court orders." *In re Reid*, 197 F.3d 318, 320 (8<sup>th</sup> Cir. 1999). Because plaintiff has failed to file a motion for leave to


proceed in forma pauperis or pay the filing fee, and has not sought an extension of time in which to do so, this action is dismissed for failure to comply with the Court's order. *See* Fed. R. Civ. P. 41(b); and *Brown v. Frey*, 806 F.2d 801, 803 (8<sup>th</sup> Cir. 1986) (stating that district court may dismiss a pro se litigant's action for failure to comply with a court order on its own initiative).

Accordingly,

**IT IS HEREBY ORDERED** that this action is **DISMISSED** without prejudice for failure to comply with the Court's order of May 31, 2022. *See* Fed. R. Civ. P. 41(b). A separate order of dismissal will be entered herewith.

**IT IS FURTHER ORDERED** that plaintiff's motion for appointment of counsel, Doc. [2], is **DENIED AS MOOT**.

Dated this 14<sup>th</sup> day of July, 2022.

  
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MATTHEW T. SCHELP  
UNITED STATES DISTRICT JUDGE